

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

TIMOTHY SCHWEIGER,

Plaintiff,

v.

MARVIN KEELING,

Defendant.

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Case Number 11-15345

Honorable David M. Lawson

Magistrate Judge Michael J. Hluchaniuk

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION,  
GRANTING DEFENDANT MARVIN KEELING'S MOTION TO DISMISS,  
DENYING AS MOOT DEFENDANT KEELING'S MOTIONS TO DISMISS  
PURSUANT TO RULE 41 AND FOR A PROTECTIVE ORDER, PLAINTIFF'S  
MOTION TO COMPEL, AND CMS'S MOTION TO ADJOURN DATES AND  
DISMISSING PLAINTIFF'S COMPLAINT**

Presently before the Court is a report issued on April 1, 2013 by Magistrate Judge Michael J. Hluchaniuk pursuant to 28 U.S.C. § 636(b) recommending that this Court grant Marvin Keeling's motion to dismiss and deny as moot defendant Keeling's motion to dismiss pursuant to Federal Rule of Civil Procedure 41, the plaintiff's motions to appoint counsel and to compel, and CMS's motions to adjourn case management order dates and to enforce magistrate judge's order. The Court already has denied the plaintiff's motion to appoint counsel and CMS's motion to enforce magistrate judge's order. Although the magistrate judge's reports explicitly stated that the parties to this action may object to and seek review of the recommendation within fourteen days of service of the report, no objections have been filed thus far. The parties' failure to file objections to the reports and recommendations waives any further right to appeal. *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's reports releases the Court from its duty to independently review the matter. *Thomas v. Arn*, 474 U.S. 140,

149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge and will adopt the report and recommendation and grant defendant Keeling's motion to dismiss. Because defendant Keeling is the only remaining defendant, the Court will dismiss the plaintiff's complaint.

In addition, on April 24, 2013, defendant Keeling filed a motion for a protective order seeking to restrict further discovery until the Court rules on the magistrate judge's report and recommendation. The Court will deny that motion as moot.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation [dkt. #92] is **ADOPTED**.

It is further **ORDERED** that defendant Keeling's motion to dismiss [dkt. #80] is **GRANTED**.

It is further **ORDERED** that defendant Keeling's motion to dismiss pursuant to Rule 41 [dkt. #64], the plaintiff's motion to compel [dkt. #72], CMS's motion to adjourn case management order dates [dkt. #85], and defendant Keeling's motion for a protective order [dkt. #97] are **DENIED AS MOOT**.

It is further **ORDERED** that the plaintiff's complaint is **DISMISSED**.

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Dated: April 30, 2013

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on April 30, 2013.

s/Deborah R. Tofil  
DEBORAH R. TOFIL